



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2009-0092; Notice 2]

Pilkington North America, Inc., Grant of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Grant of Petition for Inconsequential Noncompliance.

SUMMARY: Pilkington North America, Inc. (Pilkington) has determined that certain replacement rear windows manufactured for model year 2006 through 2009 Honda Civic two-door coupe passenger cars manufactured on April 16, 2008, do not fully comply with paragraphs S6.2 and S6.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205 *Glazing Materials*. Pilkington has filed an appropriate report pursuant to 49 CFR Part 573, Defect and Noncompliance Responsibility and Reports, dated February 4, 2009.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Pilkington has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of Pilkington's petition was published, with a 30-day public comment period, on May 20, 2009, in the Federal

Register (74 FR 23775). No comments were received. To view the petition, and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2009-0092."

For further information on this decision, contact Mr. Luis Figueroa, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-5298, facsimile (202) 366-7002.

EQUIPMENT INVOLVED: Affected are approximately 206 replacement rear windows (National Auto Glass Specifications (NAGS) part number FB22692GTY) for model year 2006 through 2009 Honda Civic two-door coupe passenger cars that were manufactured at Pilkington's Versailles, Kentucky plant on April 16, 2008.

SUMMARY OF PILKINGTON'S ANALYSIS AND ARGUMENTS: Pilkington explains that the noncompliance for the 205 replacement rear windows exists due to Pilkington's failure to label the replacement rear windows with the marks required by section 7 of ANSI/SAE Z26.1-1996, the symbol "DOT," and its NHTSA assigned manufacturer code mark. As of the time of the petition,

Paragraphs S6.2 and S6.3 of FMVSS No. 205 require in pertinent part:

S6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1 1996, in letters and numerals of the same size, the symbol

``DOT'' and a manufacturer's code mark that NHTSA assigns to the manufacturer. NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, * * *

S6.3 A manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, must (a) Mark that material in accordance with section 7 of ANSI/SAE Z26.1 1996; and (b) Certify that its product complies with this standard in accordance with 49 U.S.C. 30115.

Pilkington states that it believes that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

- 1) The noncompliances relate solely to product monograms or markings and the noncompliant rear windows. Pilkington has tested a number of the parts in its possession and confirmed that they meet or exceed all other applicable performance requirements in FMVSS No. 205.
- 2) NHTSA has previously granted other exemptions for noncompliant product labeling. In the past, the agency has recognized that the failure to meet labeling requirements often is inconsequential to motor vehicle safety.

- 3) The information contained in the noncompliant product markings is not required in order for consumers to operate their vehicles safely.

Pilkington also stated its belief that the noncompliance will not interfere with any future tracing of the windows because Pilkington is only one of three manufacturers of rear windows for this particular Honda Civic, the other two being PGW (Pittsburgh Glass Works, formerly known as PPG) and Auto Temp, Inc. Given that the windows produced by the two other manufacturers will be properly marked, Pilkington's unlabeled rear windows should easily be identified and traced, if necessary, should any future defects or noncompliances be discovered.

DISCUSSION: NHTSA has reviewed and accepts Pilkington's analyses that this noncompliance is inconsequential to motor vehicle safety. Pilkington has provided documentation that the windows do comply with all other safety performance requirements of the standard, except the labeling. This documentation is a surrogate for the certification labeling. NHTSA believes that the lack of labeling would not result in inadvertent replacement of the windows with the wrong glazing. Broken tempered glass can readily be identified as tempered glass, rather than plastic or laminated glass. Anyone who intended to replace the window with an identical tempered glass window would have to contact

Pilkington for the proper part, since tempered glass windows cannot be easily manufactured by small field facilities. At that point, Pilkington, or their representative, would be able to provide the correct replacement window by use of their parts system.

NHTSA DECISION: In consideration of the foregoing, NHTSA has decided that Pilkington has met its burden of persuasion that the FMVSS No. 205 noncompliance in the noncompliant windows described in Pilkington's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, Pilkington's petition is hereby granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the 206 noncompliant windows that Pilkington no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles.

AUTHORITY: 49 U.S.C. 30118, 30120; delegations of authority at
49 CFR 1.95 and 501.8.

ISSUED ON: April 11, 2013

Claude H. Harris, Director
Office of Vehicle Safety Compliance

BILLING CODE: 4910-59-P

[FR Doc. 2013-08955 Filed 04/16/2013 at 8:45 am; Publication
Date: 04/17/2013]